

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 143

Introduced by Revenue Committee: Wickersham, 49, Chairperson;
Coordsen, 32; Landis, 46; C. Peterson, 35;
Raikes, 25; Schellpeper, 18

Read first time January 7, 1999

Committee: Revenue

A BILL

1 FOR AN ACT relating to motor fuel tax; to amend sections 66-503,
2 66-676, 66-682, 66-738, and 66-740, Reissue Revised
3 Statutes of Nebraska; to change permit provisions, tax
4 provisions, funding, and study requirements; to provide
5 operative dates; to repeal the original sections; and to
6 declare an emergency.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 66-503, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 66-503. (1) Every person in charge of any vehicle in
4 which motor vehicle fuel or diesel fuel is carried into, within, or
5 out of the State of Nebraska shall have and keep a copy of the
6 liquid fuel carriers license with him or her during the entire
7 transportation and also a copy of the bill of sale, bill of lading,
8 manifest, purchase order, sales invoice or delivery ticket, or
9 similar documentation covering all such motor vehicle fuel or
10 diesel fuel which is individually numbered and dated and shows the
11 kind and amount of the motor vehicle fuel or diesel fuel, where
12 obtained and of whom, the destination state or delivery location,
13 and the name and address of the owner and of the consignee or
14 purchaser, if applicable. Such person shall exhibit every such
15 paper or document, immediately upon demand, to the department, any
16 employee thereof, or any peace officer of this state.

17 (2)(a) Any person importing motor vehicle fuel or diesel
18 fuel into the State of Nebraska for the purpose of delivery in this
19 state who does not have in his or her possession an original
20 unaltered bill of sale, bill of lading, or manifest identifying
21 Nebraska as the destination state shall obtain a motor fuel
22 delivery permit number ~~from the Nebraska State Patrol~~ prior to
23 delivering such fuel. A separate motor fuel delivery permit number
24 shall be required each time such person enters Nebraska for the
25 purpose of delivering motor vehicle fuel or diesel fuel in
26 Nebraska. Prior to ~~issuing~~ issuance of a motor fuel delivery
27 permit number, the ~~Nebraska State Patrol shall require such person~~
28 ~~to~~ shall provide his or her Nebraska liquid fuel carriers license

1 number, the type and amount of fuel being imported, where obtained,
2 the destination, the original bill of sale, bill of lading, or
3 manifest number, if applicable, and such other information as the
4 Department of Revenue deems necessary. ~~On or before the twentieth~~
5 ~~day of each calendar month, the Nebraska State Patrol shall provide~~
6 ~~the department with a listing of all motor fuel delivery permit~~
7 ~~numbers issued during the preceding calendar month accompanied by~~
8 ~~the information required by this section.~~

9 (b) Any person obtaining motor vehicle fuel or diesel
10 fuel from a bulk fuel storage facility located in this state, other
11 than a pipeline terminal, barge line terminal, or refinery, who
12 exits this state and returns with all or any portion of such fuel
13 remaining shall not be deemed to be importing such remaining fuel
14 and shall not be required to obtain a motor fuel delivery permit
15 number if such person maintains the documents and papers required
16 by subsection (1) of this section establishing that such remaining
17 fuel was obtained from a bulk fuel storage facility located in this
18 state.

19 (3) Any person transporting motor vehicle fuel or diesel
20 fuel shall be deemed to have given his or her consent to submit to
21 an inspection of licenses and permits required for the
22 transportation of fuel and the documents and papers required by
23 this section for the purpose of determining compliance with the
24 motor fuel laws. The issuance of a motor fuel delivery permit
25 number under this section shall be deemed to be the issuance of a
26 permit for purposes of enforcing the motor fuel laws.

27 (4) Any law enforcement officer who has been duly
28 authorized to make arrests for violations of traffic laws of this

1 state or ordinances of any city or village or any carrier
2 enforcement officer who has reasonable grounds to believe that a
3 vehicle is transporting motor vehicle fuel or diesel fuel may
4 require the operator of such vehicle to display any or all licenses
5 and permits required for the transportation of fuel and the
6 documents and papers required by this section. Such law
7 enforcement officer or carrier enforcement officer may make a
8 record of any of the information contained on the licenses or
9 permits or any of the information from the bill of sale, bill of
10 lading, manifest, or other documents and papers required by
11 sections 66-501 to 66-512 and 66-525 to 66-531.

12 (5) The Legislature declares that it does not intend to
13 place any burden upon the transportation of motor vehicle fuel or
14 diesel fuel in interstate commerce under such circumstances as
15 federal law and the Constitution of the United States preclude.

16 Sec. 2. Section 66-676, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 66-676. (1) The tax imposed by section 66-668 shall be
19 computed by each supplier, distributor, wholesaler, or importer by
20 multiplying the tax rate per gallon established in section 66-668
21 by the number of gross gallons of undyed diesel fuel ~~sold for which~~
22 ~~an exemption certificate has not been obtained~~ received, imported,
23 produced, refined, manufactured, blended, or compounded by such
24 supplier, distributor, wholesaler, or importer within the State of
25 Nebraska which are not otherwise exempt under section 66-668.

26 (2) The monthly tax return shall be accompanied by
27 remittance covering the tax due pursuant to sections 66-668 to
28 66-670 on diesel fuel ~~sold~~ received, imported, produced, refined,

1 manufactured, blended, or compounded during the preceding month.

2 Sec. 3. Section 66-682, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 66-682. (1) There is hereby imposed a floor-stocks tax
5 on diesel fuel owned by any person on ~~July 17, 1994~~ January 1, 2000,
6 if:

7 (a) No tax was imposed on such fuel under the ~~Special~~
8 Diesel Fuel Tax Act as it existed on ~~June 30, 1994~~ December 31,
9 1999; and

10 (b) Tax would have been imposed on such fuel by the
11 Diesel Fuel Tax Act ~~had it been in effect~~ as it existed for periods
12 prior to ~~July 17, 1994~~ January 1, 2000.

13 (2) The rate of the tax imposed by this section shall be
14 the amount of tax imposed under the ~~Special Diesel Fuel Tax Act~~ on
15 ~~June 30, 1994~~ December 31, 1999.

16 (3) Any person owning diesel fuel on ~~July 17, 1994~~ January
17 1, 2000, to which the tax imposed by this section applies shall be
18 liable for such tax. The tax imposed by this section shall be paid
19 on or before ~~December 31, 1994~~ July 1, 2000, and shall be paid in
20 such manner as the department prescribes.

21 Sec. 4. Section 66-738, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 66-738. The Motor Fuel Tax Enforcement and Collection
24 Division is hereby created within the Department of Revenue. The
25 division shall be funded by a separate appropriation program within
26 the department. All provisions of Chapter 66, articles 4, 5, 6,
27 and 12, and sections 66-712 to 66-737 and the provisions of Chapter
28 3, article 1, and Chapter 66, article 15, pertaining to the

1 Department of Revenue, the Tax Commissioner, or the division shall
2 be entirely and separately undertaken and enforced by the division,
3 except that the division may utilize services provided by other
4 programs of the Department of Revenue in functional areas known on
5 July 1, 1991, as the budget subprograms designated revenue
6 operations and administration. Appropriations for the division
7 that are used to fund costs allocated for such functional
8 operations shall be expended by the division in an appropriate pro
9 rata share and shall be subject to biennial audit by the Auditor of
10 Public Accounts, which audit shall be provided to the budget
11 division of the Department of Administrative Services and the
12 Legislative Fiscal Analyst by October 1 of each even-numbered year.
13 Audit information useful to other divisions of the Department of
14 Revenue may be shared by the Motor Fuel Tax Enforcement and
15 Collection Division with the other divisions of the department and
16 the Division of Motor Carrier Services of the Department of Motor
17 Vehicles, but audits shall not be considered as a functional
18 operation for purposes of this section. Except for staff
19 performing in functional areas, staff funded from the separate
20 appropriation program shall only be utilized to carry out the
21 provisions of such articles and sections. The auditors and field
22 investigators in the Motor Fuel Tax Enforcement and Collection
23 Division shall be adequately trained for the purposes of motor fuel
24 tax enforcement and collection. The Tax Commissioner shall hire
25 for or assign to the division sufficient staff to carry out the
26 responsibility of the division for the enforcement of the motor
27 fuel laws.

28 Funds appropriated to the division may also be used to

1 contract with ~~the Nebraska State Patrol~~ other public agencies or
2 private entities to aid in the issuance of motor fuel delivery
3 permit numbers as provided in subsection (2) of section 66-503, and
4 such contracted funds shall only be used for such purpose. The
5 amount of any contracts entered into pursuant to this section shall
6 be appropriated and accounted for in a separate budget subprogram
7 of the division.

8 Sec. 5. Section 66-740, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 66-740. The motor fuel tax task force created pursuant
11 to Laws 1989, LB 813, section 30, composed of representatives from
12 the Department of Roads, the Department of Revenue, the Attorney
13 General, the Nebraska State Patrol, the Department of Agriculture,
14 and the State Fire Marshal, shall carry out the duties prescribed
15 in this section. The task force shall meet at least quarterly to
16 review the activities of the state agencies that are involved in
17 motor fuel tax collection, prosecution, investigation, and
18 information gathering. ~~The task force shall study and assess the~~
19 ~~diesel fuel tax exemption for undyed diesel fuel purchased for use~~
20 ~~in temperature control units or power take-off units as set forth~~
21 ~~in section 66-673 to determine whether such exemption should be~~
22 ~~continued in light of federal and state motor fuel tax collection~~
23 ~~and enforcement efforts.~~ The task force shall study and assess the
24 successes and problems associated with the passage of Laws 1991, LB
25 627, and make recommendations for further administrative,
26 statutory, or budgetary improvements to the Appropriations
27 Committee and Revenue Committee of the Legislature on December 1 of
28 each year through 1996.

1 On June 30, 1997, the task force shall issue a report to
2 the committees. The report shall summarize for the period from
3 January 1, 1992, until the date of the report: (1) The activities
4 of the task force; (2) the total expenses of state agencies
5 associated with the implementation of Laws 1991, LB 627; and (3)
6 the estimated increases in motor fuel tax collection that are
7 related to Laws 1991, LB 627, or any associated legislation.

8 The remaining balance of the amount reappropriated
9 pursuant to Laws 1991, LB 627A, section 5, to support the
10 activities of the task force shall be reappropriated for FY1994-95,
11 FY1995-96, and FY1996-97.

12 All state agencies shall cooperate, to the extent
13 possible, with all national initiatives intended to enhance motor
14 fuel tax collection at the federal and state levels. State
15 activity in this area should include efforts to have Nebraska
16 designated as a leading state in these initiatives, should the
17 opportunity be made available.

18 Sec. 6. Sections 2, 3, and 7 of this act become
19 operative on January 1, 2000. The other sections of this act
20 become operative on July 1, 1999.

21 Sec. 7. Original sections 66-676 and 66-682, Reissue
22 Revised Statutes of Nebraska, are repealed.

23 Sec. 8. Original sections 66-503, 66-738, and 66-740,
24 Reissue Revised Statutes of Nebraska, are repealed.

25 Sec. 9. Since an emergency exists, this act takes effect
26 when passed and approved according to law.